

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Spencer & Sinikka Waugh,**  
Petitioners-Appellants,

v.

**Warren County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-91-0127**  
**Parcel No. 17510000070**

On September 3, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, Spencer and Sinikka Waugh, requested a hearing and submitted evidence in support of their petition. There were self-represented at hearing. The Board of Review designated Assistant County Attorney, John Criswell, as its legal representative and did not appear for hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Spencer and Sinikka Waugh, owners of property located at 16972 Little Lake Trail, Indianola, Iowa, appeal from the Warren County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story dwelling built in 2001 having 1747 above-grade living area with a 561 square-foot addition added in 2005, for a total of 2308 square feet of living area. The full basement has 1700 square feet of finished area. It also has an 856 square-foot attached garage and a 581 square-foot wooden deck. The home has geo-thermal heating, 133 linear feet of brick veneer and has a 3+10 quality grade. It is situated on 2.05 acres.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$373,100, representing \$41,500 in land value and \$331,600 in dwelling value.

The Waughs protested to the Board of Review in a letter with two appraisals attached. They requested a reduction in value to \$341,000, which was the average of the market values determined by the appraisals. The Waughs requested the Board of Review re-evaluate the assessed value based on the appraisals. This language indicates the Waughs claimed the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). The Board of Review denied the protest stating, "After consideration of all data presented to the Board of Review, assessment was unchanged as the data proved equitability when complete information was examined."

The Waughs then filed their appeal with this Board marking the ground of equity on the petition, but stated "the county has not accurately assessed the true value of the home." They also attached the same appraisals provided to the Board of Review. Although equity was checked on the petition, it is clear from the whole record that they were really contending the property was assessed higher than its market value. Accordingly, we consider only the claim of over-assessment.

The Waughs offered an appraisal completed by Brent M. Kimble of The Appraisal Company, Urbandale, Iowa, for a lender mortgage refinancing. He describes the neighborhood as a suburban estates area on a 60-acre lake, four miles southeast of Indianola. He indicates that comparable sales in the subject neighborhood within the past twelve months range in sale price from \$275,000 to \$325,000. Kimble reports the subject property was built with good quality materials for the area and era built, and is maintained in good condition. He indicated the subject property has a lakefront site and a walk-out lower level. The property is on a gravel road and serviced by LP gas and has a private septic system. He reports limited sales in the area and identifies five comparable sales and one listing in the appraisal. One of the comparables is a one-and-one-half story, one is a two-story, and three are ranches like to the Waughs' dwelling. Kimble adjusted the comparables for site, condition, square footage, amount of basement finish, outbuildings, quality, age, and other amenities. Adjusted sale prices ranged from

\$322,150 to \$348,705. The listing had an adjusted price of \$344,800.<sup>1</sup> He determined the property value was \$340,000 by the sales approach and \$376,700 by the cost approach using *Marshall & Swift Residential Cost Handbook* pricing. Giving most consideration to the sales comparison approach, his final opinion of value was \$340,000 as of March 4, 2009, which is within two months of the assessment date.

The Waughs also submitted an appraisal completed by Crystal Moore of A-1 Appraisals, Inc., Knoxville, Iowa, for mortgage refinancing. She indicates the dwelling has a pond view similar to other properties located in the Mary Wood Lake Estates subdivision, which has several man-made ponds. She indicates that comparable sales in the subject neighborhood within the past twelve months range in sale price from \$274,000 to \$365,000. Moore reports the dwelling is in average condition, repair and maintenance, and has a functional floor plan for the size, style and design. She identified three comparable 2008 sales and one 2009 listing making adjustments for location, condition, site size, gross living area, outbuildings, basement finish and other amenities. Adjusted sale prices ranged from \$335,800 to \$342,100. The listing was adjusted to \$360,400.<sup>2</sup> In Moore's opinion the property value is \$344,744 by the cost approach using *Marshall & Swift Residential Cost Handbook* and \$342,000 by the sales approach. Her final opinion of value is \$342,000 as of April 1, 2009, within three months of the assessment date.

Sinikka Waugh testified that two non-biased, independent appraisers valued the property at \$340,000 and \$342,000, respectively, which supports their claim the property assessment of \$373,100 is excessive. In her opinion, over-assessment is also evident when their assessment is compared to

---

<sup>1</sup> We note that Kimble's analysis is based on 2298 square foot of total living area and the assessor records indicate 2308 square feet of total living area. Kimble attributes 1448 square foot to basement finish, whereas the property record card indicates 1700 square foot of basement finish.

<sup>2</sup> We note that Moore's analysis is based on 2286 square foot of total living area and the assessor records indicate 2308 square feet of total living area. Moore attributes 1406 square foot to basement finish, whereas the property record card indicates 1700 square foot of basement finish.



other Mary Wood Lakes properties. They provided web summary sheets for twelve Mary Wood Lakes properties in their subdivision. The ten one-story frame dwellings, built between 2000 and 2006, range from 1560 to 2149 in total square feet of living area with basement finish up to 1600 square feet. These are all residentially classified and sites range from 1.63 to 3.27 acres. Assessed values of the neighboring properties range from \$242,100 to \$312,300. The subject property has greater total square feet of living area and greater basement finish than any of the compared properties. Similarly-sized site are assessed the same as the Waugh land at \$41,500. Ultimately, the assessments of these properties are irrelevant to support a claim the property is over-assessed as they are not sales. The assessed value of a comparable property, without more, does not prove the fair market value of a property.

In the certified record, the Board of Review listed five 2008 sales of one-story frame dwellings built between 1977 and 2006 with varying grade and size, it believed to be comparable to the subject property. The sale prices per-square-foot ranged from \$101.80 to \$144.54. The assessed value of these properties ranged from \$110.80 to \$148.16 per square foot. The subject property is assessed at \$143.67, near the higher end of both ranges. The record also included a document submitted to the Board of Review by the Waughs listing the five 2008 sales and one listing included in the Kimble appraisal. Because no adjustments were made for differences between these dwellings and the subject property in either listing, it is difficult to determine if they are reasonably comparable to the subject dwelling.

The Board of Review did not attend the hearing and did not offer any additional evidence to support the assessment. Reviewing all the evidence, we find that Waughs proved their claim of over-assessment. Both the Kimble and Moore appraisals value the property below the assessed value and offer the most credible evidence of the subject property's fair market value as of January 1, 2009. We

find the Moore appraisal the most reliable indicator of value because all the comparable properties were one-story ranches, more similar to the subject property.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

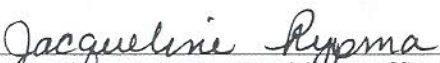
(Iowa 1995). We find a preponderance of the evidence shows the Waughs' property is assessed for more than authorized by law. The Moore and Kimble appraisals provide the most credible evidence of the fair market value of the property. The Moore appraisal because it relies only on one-story properties like the subject is the best determination of the property's fair and reasonable market value at \$342,000, representing \$41,500 in land value and \$300,500 in dwelling value.

Viewing the evidence as a whole, we determine the evidence supports the Waughs' claim of over-assessment in the January 1, 2009, assessment. Therefore, we modify the property assessment as determined by the Board of Review as of January 1, 2009, to \$342,000, representing \$41,500 in land value and \$300,500 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Warren County Board of Review is modified as set forth above.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 27 day of September 2010.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Chair

  
Richard Stradley, Board Member

Copies to:  
Spencer & Sinikka Waugh  
16972 Little Lake Trail  
Indianola, IA 50125  
APPELLANTS

Bryan Tingle  
301 North Buxton  
Suite #301  
Indianola, IA 50125  
ATTORNEY FOR APPELLEE

Traci VanderLinden  
Warren County Auditor  
301 N. Buxton, Ste 101  
Indianola, IA 50125

|   |  |
|---|--|
| Certificate of Service  |  |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-27</u> , 20 <u>10</u> |  |
| By:   | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX         |
|   | <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier |
|   | <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other             |
| Signature   | <u><i>Traci VanderLinden</i></u>   |

